

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS

No. 6:21-cv-00490

Donis Lemond Denby,
Plaintiff,

v.

FNU Garcia et al.,
Defendants.

O R D E R

Plaintiff Donis Lemond Denby, an inmate proceeding pro se and seeking to proceed *in forma pauperis*, filed this lawsuit against, among others, defendant FNU Garcia pursuant to 42 U.S.C. § 1983. This case was referred to United States Magistrate Judge John D. Love. The magistrate judge issued a report recommending that plaintiff's motions for leave to proceed *in forma pauperis* (Docs. 2, 12, 15) be denied and that the lawsuit be dismissed with prejudice for purposes of proceeding *in forma pauperis*. Plaintiff filed timely objections.

When timely objections to a magistrate judge's report and recommendation are filed, the court reviews them de novo. *See Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1420 (5th Cir. 1996).

Plaintiff insists that he was under imminent threat of serious bodily harm when he initiated his lawsuit in the Western District of Texas from the Hughes Unit. The magistrate judge correctly addressed this claim, finding that plaintiff is engaging in an ongoing, permanent danger theory to evade § 1915(g). If plaintiff's argument is correct, then it necessarily follows that he must be in imminent danger at all times and under all circumstances and is thus effectively exempt from the statute. This was plainly not Congress's intent.

Having reviewed the magistrate judge's report de novo, the court accepts the findings and recommendations. Plaintiff's motions for leave to proceed *in forma pauperis* (Docs. 2, 12, 15) are denied. The present civil-rights lawsuit is dismissed with prejudice for purposes of proceeding *in forma pauperis*, but without prejudice if not seeking *in forma pauperis* status. All pending motions are denied.

So ordered by the court on March 16, 2022.



J. CAMPBELL BARKER
United States District Judge